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DEPARTMENT OF COMMERCE

International Trade Administration

C-533-870

Certain New Pneumatic Off-The-Road Tires from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain new pneumatic off-the-road tires (off road tires) from India. The period of investigation is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Spencer Toubia, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0123.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day the Department initiated this CVD investigation, the Department also initiated an AD investigation of off road tires from India and a CVD investigation of off road

tires from Sri Lanka.^{1,2} This CVD, the India AD, and the Sri Lanka CVD investigations cover the same merchandise.

On May 11, 2016, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), Petitioners³ requested alignment of the final CVD determinations of off road tires from India and Sri Lanka with the final AD determination of off road tires from India. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determinations with the final India AD determination. Consequently, the final CVD determinations will be issued on the same date as the final India AD determination, which is currently scheduled to be issued no later than October 25, 2016.

Scope of the Investigation

The scope of the investigation covers off road tires, which are tires with an off road tire size designation. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For discussion of those comments, *see* the Preliminary Decision Memorandum.⁴

¹ *See Certain New Pneumatic Off-the-Road Tires From India, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations*, 81 FR 7067 (February 10, 2016) (*Initiation Notice*). *See also Certain New Pneumatic Off-the-Road Tires From India and the People's Republic of China: Initiation of Less Than-Fair-Value Investigations*, 81 FR 7073 (February 10, 2016).

² At this time, the Department also initiated AD and CVD investigations of off road tires from the People's Republic of China (PRC). However, on March 1, 2016, the U.S. International Trade Commission (ITC) found that imports of off road tires from the PRC were negligible and terminated the PRC AD and CVD investigations. *See Certain New Pneumatic Off-the-Road-Tires From China, India, and Sri Lanka*, 81 FR 10663 (March 1, 2016).

³ Petitioners in this investigation are Titan Tire Corporation and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.

⁴ *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Certain New Pneumatic Off-the-Road Tires from India: Preliminary Affirmative Countervailing Duty Determination Decision Memorandum," dated concurrently with this notice (Preliminary Decision Memorandum).

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy (*i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient) and that the subsidy is specific.⁵ For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of off road tires from India for all other exporters or producers not individually examined. A discussion of our determination can be found in the Preliminary Decision Memorandum.

⁵ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually-investigated producer/exporter of the subject merchandise. We preliminarily determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually examined, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies as respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act. Neither of the mandatory respondents’ rates in this preliminary determination were zero or *de minimis* or based entirely on facts otherwise available. Accordingly, in this preliminary determination, we have calculated the “all-others” rate by weight averaging the calculated subsidy rates of the two individually investigated respondents. In order to ensure that business proprietary information is not disclosed through the all-others rate, we have used the respondent’s publicly-ranged sales data for exports of subject merchandise to the United States.⁶

⁶ See Preliminary Decision Memorandum at “CALCULATION OF THE ALL-OTHERS RATE” (for further explanation of the business proprietary information concerns); *see also* Memorandum to the File, “Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Preliminary Determination Margin Calculation for All-Others,” dated concurrently with this memorandum.

We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
ATC Tires Private Limited	7.64
Balkrishna Industries Limited ⁷	4.70
All-Others	6.17

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of off road tires from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of merchandise in the amounts indicated above. Moreover, because we preliminarily find critical circumstances exist with respect to all other exporters or producers not individually examined, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption by these companies, on or after the date which is 90 days prior to the date of publication of this notice in the *Federal Register*.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

⁷ The Department selected as its mandatory respondents in this investigation ATC Tires Private Limited and Balkrishna Industries Limited. See Department Memorandum, “Countervailing Duty Investigation of Certain New Pneumatic Off-the-Road Tires from India: Respondent Selection,” dated February 24, 2016 (Respondent Selection Memorandum). On April 8, 2016, TVS Srichakra Ltd. (TVS) submitted voluntary responses to our Initial Questionnaire. See Letter from TVS, “Countervailing Duty Investigation on Imports of Certain New Pneumatic Off-the-Road Tires from India -Questionnaire Response,” dated April 8, 2016. On May 4, 2016, we determined that we did not have the resources to select to select TVS as a voluntary respondent because to do so would be unduly burdensome and would inhibit the timely completion of this investigation. Therefore, we have not analyzed any voluntary responses. See Department Memorandum, “Countervailing Duty Investigation of Certain New Pneumatic Off-the- Road Tires from India: Selection of an Additional Respondent,” dated May 4, 2016.

U.S. International Trade Commission

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department, pursuant to 19 CFR 351.309(c)(2) and (d)(2). This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S.

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Department of Commerce, filed electronically using ACCESS. An electronically-filed request must be received successfully, and in its entirety, by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and specific location to be determined. Parties will be notified of the date, time, and location of any hearing. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: __June 13, 2016__

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The scope of this investigation is certain new pneumatic off-the-road tires (certain off road tires). Certain off road tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type⁹ or tubeless, radial, or non-radial, regardless of whether for original equipment manufacturers or the replacement market.

Subject tires may have the following prefix or suffix designation, which appears on the sidewall of the tire:

Prefix designations:

DH – Identifies a tire intended for agricultural and logging service which must be mounted on a DH drop center rim.

VA – Identifies a tire intended for agricultural and logging service which must be mounted on a VA multipiece rim.

IF – Identifies an agricultural tire to operate at 20 percent higher rated load than standard metric tires at the same inflation pressure.

VF – Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.

Suffix designations:

ML – Mining and logging tires used in intermittent highway service.

DT – Tires primarily designed for sand and paver service.

NHS – Not for Highway Service.

TG – Tractor Grader, off-the-road tire for use on rims having bead seats with nominal +0.188" diameter (not for highway service).

K – Compactor tire for use on 5° drop center or semi-drop center rims having bead seats with nominal minus 0.032 diameter.

IND – Drive wheel tractor tire used in industrial service.

⁹ While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

SL – Service limited to agricultural usage.

FI – Implement tire for agricultural towed highway service.

CFO – Cyclic Field Operation.

SS – Differentiates tires for off-highway vehicles such as mini and skid-steer loaders from other tires which use similar size designations such as 7.00-15TR and 7.00-15NHS, but may use different rim bead seat configurations.

All tires marked with any of the prefixes or suffixes listed above in their sidewall markings are covered by the scope regardless of their intended use.

In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered certain off road tires include:

The table of mining and logging tires included in the section on Truck-Bus tires;

The entire section on Off-the-Road tires;

The entire section on Agricultural tires; and

The following tables in the section on Industrial/ATV/Special Trailer tires:

- Industrial, Mining, Counterbalanced Lift Truck (Smooth Floors Only);
- Industrial and Mining (Other than Smooth Floors);
- Construction Equipment;
- Off-the-Road and Counterbalanced Lift Truck (Smooth Floors Only);
- Aerial Lift and Mobile Crane; and
- Utility Vehicle and Lawn and Garden Tractor.

Certain off road tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes certain off road tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. Certain off road tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Certain off road tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope are passenger vehicle and light truck tires, racing tires, mobile home tires, motorcycle tires, all-terrain vehicle tires, bicycle tires, on-road or on-highway trailer tires, and truck and bus tires. Such tires generally have in common that the symbol

“DOT” must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following prefixes and suffixes included as part of the size designation on their sidewalls:

Prefix letter designations:

AT – Identifies a tire intended for service on All-Terrain Vehicles;

P – Identifies a tire intended primarily for service on passenger cars;

LT – Identifies a tire intended primarily for service on light trucks;

T – Identifies a tire intended for one-position “temporary use” as a spare only; and

ST – Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR – Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156” or plus 0.250”;

MH – Identifies tires for Mobile Homes;

HC – Identifies a heavy duty tire designated for use on “HC” 15” tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

Example: 8R17.5 LT, 8R17.5 HC;

LT – Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service;

ST – Special tires for trailers in highway service; and

M/C – Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; aircraft tires; and turf, lawn and garden, and golf tires. Also excluded from the scope are mining and construction tires that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
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- III. Scope Comments
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- V. Critical Circumstances
- VI. Injury Test
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